REMARKS

Reconsideration and allowance of the above-referenced application are respectfully requested. Claims 1-17 are pending in the application.

Allowable Claims 12-17

The Applicants thank the Examiner for the indication that claims 12-17 are allowed and claims 8-10 recited allowable subject matter.

Claims 1-7 and 11 over Jurkevich in view of Cox and Ginzboorg

Claims 1-7 and 11 stand rejected under 35 U.S.C. §103(a) over U.S. Patent No. 5,282,207 to Jurkevich in view of U.S. Patent No. 6,574,321 to Cox, and further in view of U.S. Patent No. 6,141,410 to Ginzboorg. The Applicants respectfully traverse the rejection.

The independent claim 1 specifies prioritizing switching of a data frame by an integrated network switch to an output port according to a user-defined policy and based on a user-selected attribute of the data frame.

Hence, a user is able to select prioritization of data frames based on, e.g., identification of any one of a prescribed network switch port receiving a data packet, a prescribed source address within the data packet, a prescribed destination address within the data packet, and/or identification of the data packet as belonging to a prescribed data flow.

As admitted in the Office Action, Jurkevich fails to disclose user-defined policies and prioritization of transmission depending on user-defining policies and user-selected attributes and switching associated with an output port (Office Action, page 2). However, the Office Action relies on Cox and Ginzboorg to allegedly make up for the deficiencies in Jurkevich to arrive at the claimed invention. The Applicants respectfully disagree.

Further, Jurkevich neither discloses or suggests an integrated network switch, but an ISDN switch. The broadest reasonable interpretation cannot be inconsistent with the specification, which illustrates the claimed integrated network switch (see, e.g., page 4, line 12). Hence, "claims are not to be read in a vacuum, and limitations therein are to be

interpreted in light of the specification in giving them their 'broadest reasonable interpretation.'" MPEP § 2111.01 at 2100-37 (Rev. 1, Feb. 2000) (quoting In re Marosi, 218 USPQ 289, 292 (Fed. Cir. 1983)(emphasis in original)).

Jurkevich is directed to an ISDN switch, and is not within the field of the inventors' endeavor, namely an integrated network switch; further, Jurkevich is not reasonably pertinent to the particular problem with which the inventors were involved, namely providing prioritized switching of a data frame by an integrated network switch. Jurkevich provides no disclosure or suggestion of using an integrated network switch, and as such is non-analogous art. In re Wood, 202 USPQ 171, 174 (CCPA 1979).

Further, as explained below, the Official Action fails to demonstrate why one having ordinary skill in the art would have been motivated to modify Jurkevich to include the teachings of Cox and Ginzboorg. "Teachings of references can be combined only if there is some suggestion or incentive to do so." In re Fine, 5 USPQ2d 1596,1600 (Fed. Cir. 1988) (quoting ACS Hosp. Sys. v. Montefiore Hosp., 221 USPQ 929, 933 (Fed. Cir. 1984)) (emphasis in original).

Cox is directed to performing prescribed actions based on a class of service in an analog telephone system (see, e.g., col. 1, line 11-63 detailing the classes of services that are available over traditional analog telephone lines), and is not within the field of the inventors' endeavor, namely switching of a data frame; further, Cox is not reasonably pertinent to the particular problem with which the inventors were involved, namely providing prioritizing switching of a data frame by an integrated network switch to an output switch port. Cox provides no disclosure or suggestion of switching of data packets, and as such is non-analogous art. In re Wood, 202 USPQ 171, 174 (CCPA 1979).

Ginzboorg's invention is directed toward finding the most effective route for data within a network, NOT prioritizing a data frame, much less prioritizing switching within any particular switch within the network based on a user-defined policy and a user-selected attribute of a data frame.

Moreover, neither Cox nor Ginzboorg even mention use of an integrated network switch, an explicit claim limitation defined as a switch implemented on a single silicon chip. Cox and Ginzboorg are directed to switching with a telecommunications network,

and is not within the field of the inventors' endeavor, namely providing an improvement within the art of <u>integrated network switches</u>; further, Cox nor Ginzboorg are not reasonably pertinent to the particular problem with which the inventors were involved, namely providing an <u>integrated network switch</u> that <u>prioritizes switching</u> of a data frame to an output port according to a <u>user-defined policy</u> and based on a <u>user-selected attribute of the data frame</u>. Jurkevich, Cox nor Ginzboorg provide disclosure or suggestion of using an integrated network switch that prioritizes switching of a data frame to an output port according to a <u>user-defined policy</u> and based on a <u>user-selected attribute of the data frame</u>, and as such are non-analogous art. <u>In re Wood</u>, 202 USPQ 171, 174 (CCPA 1979).

The rejection heading indicated that the rejection is based on Jurkevich in view of Cox and Ginzboorg. However, Dobbins is mentioned within the body of the rejection. If the Examiner intended Dobbins as a <u>fourth</u> reference in the rejection, the following comments relate to Jurkevich in view of Cox and Ginzboorg, and further in view of Dobbins.

The Examiner cited two Dobbins references on the PTO-892. However, the Examiner did not state which Dobbins reference was relied on within the body of the rejection. Fortunately, both Dobbins Patents appear to be based on the same disclosure. The Applicants are herein responding to the oldest of the two Dobbins references, U.S. Patent No. 5,485,455.

Dobbins is directed to switches within a network that are able to <u>tailor a path through the network</u>, with no mention or suggestion of using an integrated network switch; further, Dobbins is not reasonably pertinent to the particular problem with which the inventors were involved, namely providing an improvement within the <u>integrated network switch</u> art to <u>prioritize switching</u>. Dobbins provides no disclosure or suggestion of using an <u>integrated network switch</u> to <u>prioritize swtiching</u>, and as such is non-analogous art. <u>In re Wood</u>, 202 USPQ 171, 174 (CCPA 1979).

Moreover, even if Dobbins disclosed the use of an <u>integrated network switch</u> which Dobbins fails to do, Dobbins discloses prioritizing switching of a network switch based on the <u>needs of a particular port</u> (col. 33, lines 48-63). Dobbins fails to disclose or suggest <u>prioritizing switching</u> based on an <u>attribute of a data frame</u>, much less disclose <u>or</u>

suggest prioritizing switching of a data frame to an output port based a user-defined policy and a user-selected attribute of a data frame.

Finally, the Examiner alleges that it would have been obvious at the time of the invention to modify Jurkevich with the disclosure of Cox, Ginzboorg and Dobbins for the purpose of further managing the transmission of data and eliminating contention in a communication switching system. Jurkevich uses data compression to maximize available bandwidth. "Teachings of references can be combined only if there is some suggestion or incentive to do so." In re Fine, 5 USPQ2d 1596,1600 (Fed. Cir. 1988) (quoting ACS Hosp. Sys. v. Montefiore Hosp., 221 USPQ 929, 933 (Fed. Cir. 1984)) (emphasis in original). Jurkevich fails to suggest a need to further manage data transmissions within the disclosed system. Moreover, Jurkevich fails to suggest entirely changing the focus of the invention from one that uses data compression to improve bandwidth to one that optimizes switching based on a user-defined policy and based on a user-selected attribute of the data frame to improve bandwidth.

Accordingly, for at least all the above reasons, claims 1-7 and 11 are patentable over the prior art of record. It is therefore respectfully requested that the rejection be withdrawn.

Conclusion

All objections and rejections having been addressed, it is respectfully submitted that the subject application is in condition for allowance and a Notice to that effect is earnestly solicited.

To the extent necessary, Applicant petitions for an extension of time under 37 C.F.R. 1.136. Please charge any shortage in fees due in connection with the filing of this paper, including any missing or insufficient fees under 37 C.F.R. 1.17(a), to Deposit Account No. 50-0687, under Order No. 95-336, and please credit any excess fees to such deposit account.

Respectfully submitted,

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